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Before the

FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	CC Docket No. 96-45
Federal-State Joint Board on	)	
Universal Service	)	CC Docket No. 97-160

COMMENTS OF
THE PUBLIC UTILITIES COMMISSION OF OHIO

INTRODUCTION

On February 8, 1996, the President signed into law the Telecommunications Act of 1996 (1996 Act). Section 254(a)(1) of the 1996 Act requires that within one month after the date of the enactment of the 1996 Act the Federal Communications Commission (FCC) shall institute a Federal-State Joint Board on Universal Service. Consistent with the Congressional directives set forth by the 1996 Act, on November 7, 1996, the Joint Board issued its Recommended Decision to the FCC regarding universal service. On May 9, 1997, the FCC released its Report and Order (*Universal Service Order*) on the Joint Board's Recommended Decision. In its *Universal Service Order*, the FCC adopted a methodology for determining the appropriate level of high cost funding that non-rural carriers will receive.

BACKGROUND

In its *Universal Service Order*, the FCC adopted a methodology for determining the appropriate level of federal universal service high cost support for non-rural carriers. As part of that methodology, the FCC determined that the federal fund will provide 25 percent of the total support necessary for non-rural carriers (i.e., the 25/75 decision). Several parties have recently set forth proposals to modify the FCC's approach for determining support for non-rural and rural carriers. In response to these alternative proposals, the FCC issued a Public Notice (DA 98-715) in CC Docket Nos. 96-45 and 97-160 seeking to augment the record in its universal service proceeding by encouraging interested parties to submit additional proposals for modifying the FCC's methodology, or updates to those on the record, by April 27, 1998. Comments from interested parties on all proposals are due on May 15, 1998.

The Public Utilities Commission of Ohio's (Ohio Commission's) comments responding to the FCC Public Notice focus principally on the Ad Hoc Working Group's (AHWG's) April 17, 1998, recommendation to the FCC to adopt an alternative distribution proposal. The Ohio Commission also responds generally to the remainder of the alternative funding proposals to the FCC recommending to increase the level of federal high cost support to local carriers.

DISCUSSION

The AHWG proposes a complicated five-step process to determine the appropriate level of federal high cost support to local exchange carriers (LECs). The AHWG recommends, among other things, that the FCC expand its funding of support beyond the current 25 percent of the difference between the national average cost of service and the actual results of a forward looking economic cost (FLEC) model for a particular service area (i.e., to the extent the results of the FLEC model exceed the national average rate). Proponents of the AHWG proposal argue that the intent of the model is to make rates "comparable" everywhere in the country, whether or not competition has taken hold. Specifically, proponents of the AHWG model interpret Section 254 of 1996 Act regarding universal service to require nationally averaged rates.

The Ohio Commission maintains that principle goals of the Section 254 of the 1996 Act are to ensure that the *rates are reasonable* and where necessary to replace implicit subsidies with explicit subsidies, since implicit subsidies will become outmoded due to the emergence of local exchange competition. The Ohio Commission's concerns on this matter stem from its belief that, if the FCC were to interpret Section 254 of the 1996 Act consistent with the AHWG model's proponents, two distinct funds will become necessary: one fund to ensure that all end user rates are generally equal throughout the entire country, and a second fund to replace implicit subsidies that may be eliminated through the emergence of local competition.

The Ohio Commission maintains that Section 254 does not contemplate establishing the former funding mechanism. Expressed another way, our interpretation that the intent of the federal universal service fund, is exactly as described in the 1996 Act: "to replace existing implicit subsidies with explicit and predictable subsidies." The Ohio Commission submits that the AHWG proposal is inconsistent with this goal in that it simply results in a transfer of funds from low average cost states to high average cost states and does not address fully the subsidy issues as required by the 1996 Act.

On a related matter regarding the determination of the national average per-line revenues, the Ohio Commission observes that the FCC's *Universal Service Order* requires, to determine the necessary level of support, that the results of the forward looking economic cost models be compared to the national average *revenues* per line for *supportable services*. The Ohio Commission maintains that the FCC, to protect against over funding of carriers, should include the *revenues* for all additional vertical services for each single line business and residential subscriber, and not just supported services. In fact, the Ohio Commission, in its local competition proceeding, Case No. 95-845-TP-COI, Guideline XIII E.1.d [attached], determined that "In each HCS (High Cost Support) study area, an incumbent LEC, which provides service in that HCS study area, in whole or in part through its own facilities, will receive funding equal to the difference between total intrastate residential revenues from telecommunications services and total benchmark costs in that study area. Total intrastate residential revenues from telecommunications services include all revenues from intrastate retail residential services (including vertical services and any yellow pages revenues received from an affiliate), as well as wholesale payments by resellers for residential services in that study area, and do not include revenues from cable television services."

Regarding other aspects of the AHWG's proposal, the Ohio Commission notes that the proposed model compares three measures of costs: proxy model costs, embedded costs, and a "hold harmless" amount, which is the amount states currently receive through federal high cost support mechanisms. On a statewide basis, the model takes the lesser of the proxy model costs and embedded costs and compares that per line cost with a national benchmark cost (approximately $31/line residential and $51/line commercial). That calculation is then compared with each states "hold harmless" amount. States would receive the greater of the hold harmless amount or the amount calculated using the lesser of proxy model or embedded costs.

The Ohio Commission maintains that a key flaw in the AHWG proposal is that it relies exclusively on statewide average costs, as opposed to some significantly smaller level of disaggregation to determine the cost of service. As a result, low cost states are virtually guaranteed to receive no more funding than under the current system while high cost states, on the other hand, would see their entitlement increase. For example, under the AHWG proposal, the State of Ohio's carriers would receive the same amount currently under the existing system of support, or about $9.6 million.

Ohio's total contributions would increase, however, from the current $46.7 million to $68 million or a net increase of $21.3 million, all of which flows out of Ohio. This shift in revenues, which results from AGWG's proposal, runs counter to the language and the intent behind the universal service provisions of the 1996 Act. Moreover, low cost states would have their total and net contributions to the federal fund increased in addition to having to any additional funding of the intrastate high cost support deemed appropriate by a state.

The Ohio Commission believes that a more appropriate universal service model or methodology must incorporate the concept of funding based on small geographic unit within a state such as census block groups (CBGs) or wire centers in order to ensure that the federal universal service fund appropriately targets at least some funding of high cost areas within otherwise low cost states. Additionally, the Ohio Commission observes that AHWG's proposal will only result in an increase in federal high cost assistance to $1.83 billion from $1.25 billion (i.e., the current costs associated with federal high cost support and dial equipment minute [DEM] weighting).

The AHWG's proposal, however, is vague concerning the additional monies necessary to provide funding to non-rural carriers providing service at high-cost locations. The proposal is also vague concerning the extent to which the $1.83 billion will address the removal of the implicit subsidies for all local carriers, which was discussed earlier in these comments. Consequently, the Ohio Commission assumes that the cost associated with AHWG's proposal may exceed its $1.83 billion projection if funding for large non-rural local carriers and revenues for additional explicit support are not included in the model's estimates.

The Ohio Commission also observes that several other proposals responding to the FCC's Public Notice recommend that the FCC should increase the percentage level of federal support to carriers and/or states. The Ohio Commission maintains that the AHWG's proposal, in addition to all other recommendations to increase the level of federal universal service support, should be rejected by the FCC. In particular, since the FCC has not yet released its final proxy cost model for federal universal service high cost assistance, the Ohio Commission maintains that the FCC should move cautiously upon re-determining the appropriate level of federal high cost support.

Expressed another way, since the FCC has not adopted a final forward-looking cost proxy model for either rural or non-rural LECs, it is impossible to determine accurately the long-term costs associated with high cost programs. The Ohio Commission maintains that the true consequences of the FCC's universal service proposals must be fully evaluated based on actual experiences with the programs prior to reconsidering the appropriate level of federal support. Consequently, the FCC should defer reconsidering whether the 25 percent support level represents a reasonable cap on interstate high cost assistance.

CONCLUSION

In closing, the Ohio Commission wishes to thank the FCC for the opportunity to file comments in this proceeding.

On behalf of the
Public Utilities Commission of Ohio

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EXCERPT

Case No. 95-845-TP-COI

LOCAL SERVICE GUIDELINES

2/20/97

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modification of an existing attachment sought by another party. If a party makes an attachment to the facility after the completion of the modification, such party shall share proportionately in the cost of the modification if such modification rendered possible the added attachment.

6. Prices for ducts, conduit space, and access to right-of-way shall be set at a level that allows the providing carrier to recover its TELRIC, as described in Section V.B.4. of these guidelines, of providing ducts, conduit space, and access to right-of-way and a reasonable allocation of the forward-looking joint and common costs incurred by the providing carrier and satisfy the requirements of Section 224 of the 1996 Act. The allocation of the forward-looking joint and common costs shall be according to the allocation method described in Section V.B.4. of these guidelines.

C. Coordination

LECs shall coordinate their right-of-way construction activity with the affected municipalities and landowners. Nothing in this section is intended to abridge the legal rights and obligations of municipalities and landowners.

D. Disputes

1. Public utilities shall comply with Section 4905.51, Revised Code.

2. Disputes concerning the compensation or conditions of use or joint use of equipment may be brought to the Commission for resolution pursuant to Section 4905.51, Revised Code.

XIII. UNIVERSAL SERVICE

A. Definitions

1. Universal service establishes a minimum level of essential basic telecommunication services to be made available at just, reasonable, and affordable rates to all who desire such services. Universal service applies to all telecommunications carriers for the benefit of all residents in Ohio.

   Universal service includes the following services:

   a. Residential single party, voice-grade access line;

b. Touch-tone dialing;

c. Access to telecommunications relay service;

d. Access to operators and directory assistance;

e. Access to emergency services (9-1-1/E-9-1-1) (where available);

f. Availability of flat-rate service;

g. Access to all available long distance carriers;

h. A white pages listing, plus a directory;

i. Blocking for Caller ID, Auto Callback, 900, 976, 976-like services, and toll restriction blocking; and,

j. The capability of transferring data at a rate of 9600 bps by June 12, 1997 and 14,400 bps by December 31, 1998.

The list of services that comprise universal service will be periodically reviewed by the Commission and updated as telecommunications and information technologies and services advance and as societal needs dictate.

2. Universal Service Funding (USF) assistance has two separate and distinct components:

   a. **High Cost Support (HCS)** is intended to ensure the provision of universal service to residential customers at just, reasonable, and affordable rates in geographic areas with high cost characteristics, (e.g., low population density, long loop lengths per household, or terrain features which cause plant installation to be expensive).

   b. **Low Income Assistance** is intended to provide income-eligible residential customers who participate in designated federal or state low-income programs, with discounts for certain basic local services to assist participants in obtaining and maintaining access to the network.

3. **High Cost Support Eligible Area** is defined as a geographic area (i.e., approved by the Commission) within which the established HCS benchmark cost for the number of households in that area exceeds

the ILEC's total intrastate residential revenues within that same geographic area.

4. **Income Eligible Residential Customers** shall be determined by their participation in federal and state low-income programs (e.g., Home Energy Assistance Program, Ohio Energy Credits Program, Supplemental Security Income, Medicaid, Aid for Families with Dependent Children). The Commission will periodically review the status of the programs used to determine income eligibility.

B. Universal Service Fund (USF) Contributions

1. All telecommunications carriers (i.e., facilities-based LECs, nonfacilities-based LECs, and CTS providers) shall pay into the intrastate Universal Service Fund (USF) pool via a USF charge, including those entities providing telecommunications services who pay into the interstate USF, but are exempted from registering with the Commission.

2. The USF support level will be based on each carrier's total intrastate revenues, including revenues received from subsidiaries (e.g., yellow pages revenues).

3. The USF percentage assessed to each carrier will be based on a statewide aggregation of required subsidies for all USF eligible services in the state. This percentage will be calculated and revised at least annually, as determined by the Commission and the fund administrator.

4. In determining the percentage to be assessed to each carrier, the Commission may also consider the extent to which a carrier is providing service in a nondiscriminatory manner within its service territory. In making such a determination, the Commission will consider the self-defined serving area of the carrier, the carrier's percentage of business vs. residential customers, and the extent to which the carrier serves low income customers. LECs not serving an appropriate proportion of residential and business customers will be required to contribute more to the USF than those LECs which do so.

5. The fund administrator will calculate at least annually, not to exceed quarterly, each carrier's obligation to the fund and will invoice each carrier accordingly. Payments on behalf of carriers to the fund shall be made at least annually, but not to exceed quarterly, as deemed appropriate by the Commission and the fund administrator.

C. High Cost Support Program

1. ILECs will retain the carrier of last resort obligation until such time as the Commission determines the carrier of last resort via a bidding process or other mechanism. During that interim period, any certified, facilities-based, LEC serving residential customers within a HCS eligible area may withdraw from the fund an amount no greater than the maximum subsidy established according to the methodology in Section E.1. below.

2. No sooner than one year after the enactment of these guidelines, the Commission will evaluate whether to implement a bidding process or some other mechanism for the carrier of last resort obligation as a requirement for ongoing eligibility for high cost support funding.

3. Any carrier accepting HCS monies must offer the services supported by universal service support and must advertise the availability of such services.

D. Low-Income Support Program

1. Effective immediately, all certified LECs that have not been otherwise exempted by this Commission shall participate in the Telephone Service Assistance and Service Connection Assistance Programs. Notwithstanding legislation that would establish otherwise, all LECS shall continue to provide the benefits of the TSA and SCA programs pursuant to the existing state and federal funding methodologies.

2. As of January 1, 1998, and LEC offering the following package of low income assistance to income eligible residential customers as defined in Section XIII.A.4., above, will be eligible for any incentives established in XIII.D.3., below, in addition to dollar for dollar recovery from the universal service fund according to the methodology in Section XIII.E., below.

   a. A waiver of deposits required to obtain new service;

   b. A waiver of the service connection charge for establishing local service, if it is more that $5.00;

   c. A monthly discount off of the basic local access line charge at an amount equal to the subscriber line charge;

   d. A monthly waiver of the federal subscriber line charge;

e. A waiver of the charges for touch-tone service;

f. Discounted rates for call control features, i.e., toll restriction and blocking for 900 and 976 calls; and

g. A waiver of the charges for 9-1-1 and E-9-1-1.

The Commission may periodically re-evaluate and modify the package of services in this paragraph.

3. To encourage LECs to actively promote the package of low-income support programs described in Section XIII.A.4., such carriers will receive a partial offset against their contribution to the USF for each $1.00 of subsidy received from the USF for provision of these low-income programs. The Commission will determine the appropriate amount of offset by June 12, 1998.

4. The Commission may consider prior commitments made by LECs in alternative regulation proceedings in determining the extent of eligibility for USF funding under Section XIII.D.2. and D.3. of these guidelines.

E. Support Withdrawal Criteria

1. High Cost Support Withdrawal

Until such time as the Commission establishes a carrier of last resort via a bidding process or other mechanism, any facilities-based LEC is eligible for HCS funding according to the following methodology:

a. The calculation of the HCS subsidy will be done on the basis of existing ILEC wire center boundaries and will be designated a HCS study area.

Any ILEC or facilities-based NEC may petition the Commission to adopt an alternative HCS study area based on the specific characteristics of its service territory or its specific business operating practices. The petitioning LEC will have the burden of proof in demonstrating that its alternative proposed HCS study area boundaries will permit a more efficient comparison of benchmark costs and revenues.

b. The benchmark costs will be calculated using the Census Block Group (CBG) benchmark costs from the "Benchmark Cost Model" as filed with the FCC in CC Docket No. 80-286. The

Commission may also adopt any subsequent revisions to this model. The CBG costs will be aggregated to the HCS study area level by taking an average of CBG costs within that area weighted by the number of households in each of those CBGs. This weighted average cost will be the per household benchmark cost within the HCS study area. The benchmark costs will include an allowance for common costs.

c. Any ILEC or facilities-based NEC may petition the Commission to adopt alternative benchmark costs based on company-specific analysis. The petitioning LEC will have the burden of proof in demonstrating that its alternative proposed benchmark costs more accurately reflect its true TELRIC costs within a given HCS study area.

d. In each HCS study area, an ILEC, which provides service in that HCS study area, in whole or in part through its own facilities, will receive funding equal to the difference between total intrastate residential revenues from telecommunications services and total benchmark costs in that study area. Total intrastate residential revenues from telecommunications services include all revenues from intrastate retail residential services (including vertical services and any yellow pages revenues received from an affiliate, and any revenues from an affiliate that relate to the provision of intrastate telecommunications services), as well as wholesale payments by resellers for resale of residential services in that study area. Total benchmark costs are the calculated benchmark cost per household times the total number of households in the study area, less any avoided costs calculated according to Section V.A. of these guidelines.

e. A facilities-based NEC serving a HCS study area, which provides service in that HCS study area, in whole or in part through its own facilities, will receive HCS funding equal to the difference between total residential revenues from telecommunications services and total benchmark costs in that study area. Total intrastate residential revenues include all revenues from intrastate retail services, as well as wholesale payments by resellers in that study area. Total benchmark costs are the calculated benchmark cost per household times the total number of households being served in that study area.

f. Disbursements from the fund will be calculated based on 12 months of historical information on the number of households served, benchmark costs, and total residential revenues within each HCS fund eligible area. The amount of subsidy received may also be adjusted to account for any subsidies received from other federal or state programs, including any federal universal service fund that may be adopted by the FCC.

g. Unless the Commission finds it otherwise appropriate because the involved carrier is subject to competition, ILECs are eligible for HCS funding according to the above methodology only if such carriers are not exempt under Section II.A.2. of these guidelines.

h. In determining HCS funding, the Commission will consider all relevant factors, including the carrier's return on equity.

2. Low-Income Support Withdrawal

The calculation of the low-income subsidy will be the amount accrued by any LEC for discounting or waiving rates for services delineated under the low-income support program. The calculation of the amount of subsidy required for touch tone service, will be based on the actual incremental cost of providing that service. The calculation will be based only on program costs that are not recoverable through any other available subsidies or tax credits.

F. Universal Service Fund Administration

1. The USF shall be managed by a neutral, third-party administrator, which will be selected by the Commission through a request for proposal (RFP) process and will be subject to the Commission's oversight.

2. The ongoing necessity of an intrastate USF will be reviewed periodically by the Commission and the fund administrator.

XIV. NUMBER PORTABILITY

A. Principle

End users should have the ability to retain the same telephone number as they change from one service provider to another as long as they remain in the same location, or when moving within the same wire center and exchange area.